

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

PAUL A. TARPLEY

CIVIL ACTION NO. 05-1224-A

-VS-

JUDGE DRELL

JO ANNE B. BARNHART,
COMMISSIONER OF SOCIAL SECURITY

MAGISTRATE JUDGE KIRK

JUDGMENT

For the reasons contained in the Report and Recommendation of the Magistrate Judge previously filed herein, and concurring with the Magistrate Judge's findings under the applicable law, this Court adopts the Report and Recommendation, subject to the modifications set forth herein.

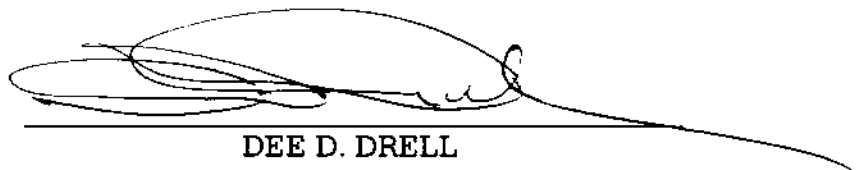
Contrary to the Magistrate Judge's statement on page two of his Report and Recommendation, the Appeals Council found Mr. Tarpley had not engaged in substantial gainful activity since December 21, 2002, not December 21, 2001. (R., p. 11.)

Also, on page four of the Report and Recommendation, the Magistrate Judge mistakenly included Mr. Tarpley's jobs as a companion/sitter in the category of "past relevant work" as established by the facts. This is obviously a clerical error, because the remainder of the Report and Recommendation explains in detail why these jobs constituted unsuccessful work attempts.

Finally, the Court notes, by way of explanation, that although Mr. Tarpley's second unsuccessful work attempt (the companion/sitter position he held from July 2002 through December 2002) was not proceeded immediately by a period of unemployment lasting at least thirty consecutive days, the work was still "discontinued" within the meaning of the Social Security Act, because the medical and other evidence shows Mr. Tarpley's impairment forced him "to change to . . . another employer." See 20 C.F.R. § 404.1574(c)(2).

Accordingly, IT IS ORDERED that the decision of the Commissioner is REVERSED and this case is REMANDED to the Commissioner for further proceedings in accordance with the Report and Recommendation issued herein.

SIGNED on this 11 day of August, 2006, at Alexandria, Louisiana.


DEE D. DRELL
UNITED STATES DISTRICT JUDGE